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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,049	11/07/2001	William E. Mazzara	GP-301610	1827

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EXAMINER

CAI, WAYNE HUU

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/040,049	Applicant(s) MAZZARA ET AL.	
	Examiner Wayne Cai	Art Unit 2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Request for Continued Examination (RCE) dated 10/20/2005.

Claims 1-24 are cancelled.

Claims 25-46 are newly submitted.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 25, 37, and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 25, 37, and 46, either the Examiner, or one skilled in the art would not know how the step of determining availability and the step of determining capability could be accomplish. In response to this Office Action, the Examiner respectfully requests the Applicant to point out columns and lines where in the specification demonstrating how these steps could be achieved.

Claim Objections

3. Claims 25, 37, and 46 are objected to because of the following informalities:

In claims 25, 37, and 46, the Examiner suggests the Applicant to correct as the following:

Art Unit: 2681

"determining availability of at least one embedded device, the embedded device embedded in a vehicle, and at least one portable network access device, based on the network connection request" should be corrected as - - determining availability of at least one embedded device, the embedded device embedded in a vehicle, or at least one portable network access device, based on the network connection request; - -

"determining capability of the at least one embedded device and at least one portable network access device based on their availability; and" should be corrected as - - determining capability of the at least one embedded device or at least one portable network access device based on their availability; and - -

The Examiner respectfully requests the Applicant to make some changes as suggested above because in the specification on page 8, lines 28-29, the Applicant recites "determining whether the communication link with the service provider should be established by a PNAD or the embedded device." On page 9, lines 5-7, the Applicant also recites that "determines if a more reliable service is available on a portable network access device (PNAD) 245 than the service provided on the embedded device 205." (i.e., determining availability/capability of the embedded device **or** the portable network access device, but not determining availability/capability of the embedded device **and** the portable network access device as recited in the claims by the Applicant) The Applicant also clearly illustrates in Fig. 3, block 305 "PNAD available?" If YES then go to block 310, if NO then go to block 350 (i.e., only determining if PNAD is available, but not PNAD and the embedded device.)

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 25, 34, 37, and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamashita (US 2001/0011033 A1).

Regarding claims 25, 37, and 46, Yamashita discloses a method, a computer usable medium, and a system for connecting to a network, the method comprising:

- receiving a network connection request at a system master (paragraph 0051);
- determining availability of at least one embedded device, the embedded device embedded in a vehicle, and at least one portable network access device, based on the network connection request (paragraphs 0052-0053);
- determining capability of the at least one embedded device and at least one portable network access device based on their availability (paragraph 0034);
- initiating a connection to the network using one of the at least one embedded device or at least one portable network access device based on the capability determination (fig. 3, boxes S204 or S202 and its descriptions).

Regarding claim 34, Yamashita discloses the method of claim 25 as described above. Yamashita also discloses wherein receiving a network connection request

comprises establishing a link between the embedded device and the portable network access device (fig. 3, boxes S201, S203 and its descriptions).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 26, 33, 35, 38, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita.

Regarding claims 26, 35, and 38, Yamashita discloses the method, and computer usable medium of claims 25, and 37 as described above, except wherein the system master is the embedded device. The Examiner notes that even though Yamashita does not explicitly or specifically disclose the system master is the embedded device. However, it would be obvious to one skilled in the art to simply design or implement a portable device that could be placed in a vehicle. Hence, this claimed feature is not novel.

Regarding claims 33, and 45, Yamashita discloses the method, and computer usable medium of claims 25, and 37 as described above, except wherein the type of service is analog communication, digital communication, satellite communication, and global system for mobile communication. The Examiner, however, takes Official Notice regarding the different types of services as claimed above because it is well known in

Art Unit: 2681

the art to use at least any one of those types in communicating or connecting between devices.

8. Claims 27-32, and 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita in view of Khullar (US – 6,748,246 B1).

Regarding claims 27, and 39, Yamashita discloses the method, and computer usable medium of claims 25, and 37 as described above. Yamashita, however, fails to disclose wherein the capability determination is based on factors selected from the group consisting of battery life viability, relative signal strength indication, service availability, type of service and call state.

In a similar endeavor, Khullar discloses a method and apparatus for selecting an access technology in a multi-mode terminal. Khullar also discloses wherein the capability determination is based on factors selected from the group consisting of battery life viability (col. 4, lines 3-5), relative signal strength indication (col. 4, lines 32-45), service availability (col. 4, lines 17-22), type of service and call state (col. 4, lines 22-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the listed factors above in order to determine the ability to make a connection or service, and make the communication more reliable and efficient.

Regarding claims 28, and 40, Yamashita, and Khullar disclose the method, and computer usable medium of claims 27, and 38 as described above. Khullar also

Art Unit: 2681

discloses wherein the battery life viability is based on a power state and a power life (col. 4, lines 1-4).

Regarding claims 29, and 41, Yamashita, and Khullar disclose the method, and computer usable medium of claims 27, and 38 as described above. Khullar also discloses determining a calibrated threshold for the battery life viability (col. 6, lines 11-32).

Regarding claims 30, and 42, Yamashita, and Khullar disclose the method, and computer usable medium of claims 29, and 41 as described above. Khullar also discloses determining the battery life viability if the calibrated threshold is exceeded (col. 6, lines 11-32).

Regarding claims 31, and 43, Yamashita, and Khullar disclose the method, and computer usable medium of claims 30, and 37 as described above. Khullar also discloses determining a calibrated threshold for the received signal strength indication (col. 4, lines 32-45).

Regarding claims 32, and 44, Yamashita, and Khullar disclose the method, and computer usable medium of claims 31, and 43 as described above. Khullar also discloses determining the received signal strength indication if the calibrated threshold is exceeded (col. 4, lines 32-45).

9. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita in view of Holmstrom et al. (US – 6,741,870 B1).

Regarding claim 36, Yamashita discloses the method of claim 25 as described above, except retrying the connection initiation if connection was not established.

In a similar endeavor, Holmstrom discloses a method and system for selecting communication media. Holmstrom also discloses retrying the connection initiation if connection was not established (abstract, and col. 3, lines 1-12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yamashita's invention and include the step of retrying the connection so that the system could make communication between devices.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Cai whose telephone number is (571) 272-7798. The examiner can normally be reached on Monday-Friday; 9:00-6:00; alternating Friday off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Wayne Cai
Examiner
Art Unit 2681



ERIKA A. GARY
PRIMARY EXAMINER